

### **REMARKS**

Reconsideration of this application is respectfully requested. Claims 1-4 and 6-12 are pending in this application. Claims 1-4 and 6-12 stand rejected.

The rejections of claims 3, 4 and 6 will be discussed first below because the Examiner once again applies the **Komiyama** and **Lee** references against these claims. However, the **Komiyama** and **Lee** references were removed as effective prior art references by submitting the verified translations of the certified copies of the priority document with the Amendment filed on August 14, 2007.

#### **Claims 3, 4 and 6**

Claims 3-4 are rejected under 35 U.S.C. §103(a) as being unpatentable over **Ikeda et al.** in view of **Komiyama** (US 2004/0180705, previously cited). Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over **Ikeda et al.** in view of **Lee** (US 2004/0132514, previously cited.).

As will be discussed in detail below, it is respectfully submitted that the rejections of claims 3-4 and 6 are improper and should be withdrawn because the **Komiyama** and **Lee** references are not effective prior art references against the claims.

#### **Claims 3 and 4**

In the first Office Action mailed on April 23, 2007, claims 3 and 4 were rejected under §103 over the combination of **Ikeda et al.** in view of **Komiyama**. In the Amendment filed on August 14, 2007, the rejection of claims 3 and 4 under §103 was responded to by submitting

verified translations of the certified copies of the priority documents to remove the **Komiyama** reference as an effective prior art reference.

The current Office Action rejects claims 3 and 4 over the same combination of **Ikeda et al.** and **Komiyama**. Further, the current rejection of claims 3 and 4 does not address the submission of the verified translations to remove the **Komiyama** reference. Therefore, it is respectfully submitted that the current rejection of claims 3 and 4 is improper and should be withdrawn because it applies the **Komiyama** reference, which was removed as an effective reference by submitting the verified translations of the certified copies of the priority documents.

Accordingly, it is respectfully requested that a new non-final Office Action be issued in which all references used to reject claims 3 and 4 have proper effective dates.

Further, it is submitted that the next Office Action that properly rejects claims 3 and 4 cannot be a *final* Office Action. More specifically, in the Amendment filed on August 14, 2007 in response to the first Office Action, dependent claim 3 was amended to place claim 3 in independent form by amending claim 3 to include the features of original independent claim 1. In other words, current independent claim 3 recites the same invention as original dependent claim 3. Claim 4 depends from claim 3.

The Examiner is permitted to make a second or subsequent Office Action final only when a new ground of rejection is necessitated by applicants' amendment of the claims. If a new reference is applied in place of **Komiyama** to reject claim 3, this rejection will be a new ground of rejection that is *not* necessitated by applicants' amendment of the claims because amended

claim 3 is the same as original claim 3, except written in independent form. That is, the amendment to claim 3 will not have necessitated the new grounds of rejection.

#### Claim 6

In the first Office Action mailed on April 23, 2007, claim 6 was rejected under §103 over the combination of **Ikeda et al.** in view of **Lee**. In the Amendment filed on August 14, 2007, the rejection of claim 6 under §103 was responded to by submitting verified translations of the certified copies of the priority documents to remove the **Lee** reference as an effective prior art reference.

The current Office Action rejects claim 6 over the same combination of **Ikeda et al.** and **Lee**. Further, the current rejection of claim 6 does not address the submission of the verified translations to remove the **Lee** reference. Therefore, it is respectfully submitted that the current rejection of claim 6 is improper because it applies the **Lee** reference, which was removed as an effective reference by submitting the verified translations of the certified copies of the priority documents.

Accordingly, it is respectfully requested that a new non-final Office Action be issued in which all references used to reject claim 6 have proper effective dates.

Further, it is submitted that the next Office Action that properly rejects claim 6 cannot be a *final* Office Action. More specifically, in the Amendment filed on August 14, 2007 in response to the first Office Action, dependent claim 6 was amended to place claim 6 in independent form by amending claim 6 to include the features of original independent claim 5.

In other words, current independent claim 6 recites the same invention as original dependent claim 6.

The Examiner is permitted to make a second or subsequent Office Action final only when a new ground of rejection is necessitated by applicants' amendment of the claims. If a new reference is applied in place of **Lee** to reject claim 6, this rejection will be a new ground of rejection that is *not* necessitated by applicants' amendment of the claims because amended claim 6 is the same as original claim 6, except written in independent form. That is, the amendment to claim 6 will not have necessitated the new grounds of rejection.

#### Claims 1 and 2

Claims 1-2 are rejected under 35 U.S.C. §102(e) as being anticipated by **Ikeda et al.** (USP 6,957,083, previously cited). For the reasons set forth in detail below, this rejection is respectfully traversed.

The patentability arguments regarding claims 1-2 set forth in the Amendment filed on August 14, 2007 are hereby incorporated by reference.

The Examiner asserts that the "closing means ...*provided in the cover cabinet*" is taught by **Ikeda et al.** because "when the cover cabinet is in a closed state, [the] sound emitting holes are closed." See Office Action, page 4, lines 6-7.

It is not entirely clear from the Examiner's current rejection as to how Examiner considers the closing means to be provided in the cover cabinet 100 of **Ikeda et al.** It is

submitted that the cover cabinet 100 does not close the sound emitting holes as the sound emitting holes are free to emit sound.

Claims 7-12

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over **Ikeda et al.** in view of **Sudo et al.** (US 2005/0119023A1, newly cited). Claims 8-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over **Ikeda et al.** in view of **Miyashita** (USP 6,731,912B1, previously cited). For the reasons set forth in detail below, the rejections of claims 7-12 are respectfully traversed

Claim 7

The Examiner now applies the **Sudo et al.** reference to teach the features recited in the “wherein” clauses of claim 7. See Office Action, page 11, last two (2) lines – page 12, line 7. However, the Examiner provides no specific explanation of the correspondence between the elements of **Sudo et al.** and the claimed invention and simply cites paragraph [0105] as teaching all of the features in the “wherein” clauses.

Paragraph [0105] of **Sudo et al.** relates to a base 15 that is part of a pivotal hinge unit 4 for a foldable cell phone. The base 15 mounts an open-close hinge unit 2, 3 (see paragraph [0009], lines 12-13; see also Fig. 19)

It is respectfully submitted that the base 15 described in paragraph [0105] is completely unrelated to the claimed “partition.” More particularly, first, the base 15 is completely unrelated to a “partition wall for partitioning a first area having the first speaker disposed therein and a

second area having the second speaker disposed therein, formed between these two areas inside the cover cabinet,” as claimed. The base 15 is part of the hinge of the cell phone and does not partition areas inside the cover cabinet.

Second, it is unclear what elements the Examiner considers to correspond to the claimed “first projection projecting from the inner cabinet half” and “second projection projecting from the rear cabinet half and being opposed to the first projection” and “a seal member intervening between the both projections, wherein the first and second projections are in close contact with the seal member.”

In any event, it is respectfully submitted that the hinge of **Sudo et al.** does not partition areas inside a cover cabinet as claimed, and if the teachings of **Sudo et al.** were applied to the **Ikeda et al.** device, the **Ikeda et al.** device would have a hinge in the middle of the cover cabinet, thus destroying its function. Accordingly, the combination of references does not result in the invention recited in claim 7.

In view of the above remarks, it is submitted that independent claim 7 patentably distinguishes over the cited prior art. Reconsideration and withdrawal of the rejection of claim 7 is respectfully requested.

#### Claim 8-12

In the previous response, it was argued with respect to claim 8 that neither **Ikeda et al.** nor **Miyashita** disclose or suggest the claimed “*wherein the microphone is rotatably disposed at*

*an end of the body cabinet, and capable of facing a direction deviating from the cover cabinet in a closed position with the both cabinets closed.”*

The Examiner responds by asserting “The rotating microphone in **Miyashita** (fig. 3: 20a) can be used in the body cabinet of the phone in **Ikeda et al.** (fig. 1a: 201) to enable efficient voice transmissions for comfortable telephone conversations even when the microphone and the mouth are placed a little away from each other.” See Office Action, page 3, lines 3-6.

However, it is respectfully submitted that the Examiner’s response to the arguments regarding claim 8 is a conclusion that is not supported by any teaching of the references. Further, the Examiner’s response does not address any of the arguments set forth in the previous response.

More specifically, first, the Examiner concludes that the microphone of **Miyashita** “can be used in the body cabinet of the phone in **Ikeda et al.**” without providing any teaching or suggestion that the microphone of **Miyashita** could be used with a *foldable phone* of **Ikeda et al.** In particular, the Examiner relies on Fig. 3 of **Miyashita**, which discloses a portable telephone that is *not foldable* and does *not* have a body cabinet and a cover cabinet. Therefore, **Miyashita** does not teach the claimed relationship between the claimed microphone, body cabinet and cover cabinet in a foldable phone.

Further, it is submitted that, even if the references were combined, the result would not be the claimed invention. More specifically, because the movable portion 18 that holds the microphone 20A in Fig. 3 of **Miyashita** moves outward from the casing 10, unlike the claimed invention, **Miyashita** teaches that the movable portion 18 would **not** be capable of moving if

incorporated into **Ikeda et al.** with both cabinets closed because the movement would be blocked by the first casing 100 (assuming the microphone is incorporated into the second casing 200).

That is, if the microphone 20A of **Miyashita** were incorporated into the phone of **Ikeda et al.**, the microphone 20A would not be “*capable of facing a direction deviating from the cover cabinet in a closed position with the both cabinets closed*” because the microphone could not move from the direction of the cover cabinet with both cabinets closed.

In view of the above remarks, it is submitted that independent claim 8, and claims 9-12 which depend therefrom, patentably distinguish over the cited prior art. Reconsideration and withdrawal of the rejection of claims 8-12 are respectfully requested.

### **CONCLUSION**

In view of the foregoing remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.



Application No.: 10/578,346  
Art Unit: 2615

Request for Reconsideration under 37 C.F.R. §1.116  
Attorney Docket No.: 062512

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

A handwritten signature in black ink, appearing to read "William M. Schertler". The signature is fluid and cursive, with the first name "William" and last name "Schertler" clearly distinguishable.

William M. Schertler  
Attorney for Applicants  
Registration No. 35,348  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

WMS/dlt